

2-283A016

LOW END RAIL CAPITAL HOLDINGS, INC.

6 W. HUBBARD STREET
SUITE 500
CHICAGO, ILLINOIS 60610
312-527-2300
TELECOPIER: 312-527-2023

October 5, 1992

RECORDATION NO 17973
OCT 9 1992-10 05 AM
INTERSTATE COMMERCE COMMISSION

Mr. Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Mr. Strickland:

Enclosed for recordation in your office pursuant to the provisions of 49 U.S.C. 11303 are three original copies of a Lease Agreement dated as of October 2, 1992, a primary document as defined in the Interstate Commerce Commission's Rules for the Recordation of Documents, 49 CFR §1177.

The names and addresses of the parties to the enclosed document are as follows:

Lessor:	Low End Rail Capital Holdings, Inc. 6 West Hubbard Street Suite 500 Chicago, Illinois 60610
Lessee:	Wheeling & Lake Erie Railway Company 100 East First Street Brewster, Ohio 44613

OCT 9 10 39 AM '92
MOTOR VEHICLE UNIT

A description of the railroad equipment covered by the enclosed document is set forth as Schedule I attached to this letter.

Also enclosed is a check in the amount of \$16 payable to the order of the Interstate Commerce Commission covering the recordation fee.

Please return any stamped copies of the enclosed document not required for your files to Debora J. Choate, Esq., McLachlan, Rissman & Doll, 6 West Hubbard Street, Suite 500, Chicago, Illinois 60610. A self-addressed, stamped envelope is enclosed for that purpose.

A short summary of the enclosed primary document to appear in the Interstate Commerce Commission's files is as follows:

Lease Agreement dated as of October 2, 1992 between Low End Rail Capital Holdings, Inc., lessor, and Wheeling & Lake Erie Railway Company, lessee, covering 199 gondola rail cars bearing road numbers in the series WE 328478-328594, WE 60009-61494, WE 291006-291264, WE 314009-314299, and WE 328019-328434.

Low End Rail Capital Holdings, Inc.

By: John W. Miller

Its: Vice President Finance

SCHEDULE I

Description of Railroad Equipment

199 50 ft., 70 ton, flat-bottomed steel mill gondolas, with steel floors and friction bearings, bearing the following WE road numbers:

328478	60381	61078	291056	314048	314173	328043
328511	60392*	61090	291059	314050	314176	328053
328529	60409	61092	291060	314051	314178	328073
328536	60478	61122	291074	314052	314182	328074
328548	60503	61153	291079	314071	314196	328084
328555	60535*	61158	291081	314072	314202	328087
328565	60580	61165	291104	314075	314208	328091
328567	60615	61193	291107	314081	314219	328126
328577	60645	61209	291123	314087	314223	328127
328583	60661	61224	291133*	314107	314226	328134
328588	60745	61232	291139	314108	314227	328138
328594	60747	61238	291144	314110	314229	328151
60009	60769	61258	291158	314117	314230	328158
60016	60778	61272	291165	314119	314233	328194
60022	60793	61313	291185	314121	314245	328201
60029	60816	61345	291199	314128	314254	328203
60047	60825	61352	291211	314135	314258	328262
60079	60832	61362	291215	314136	314281	328263
60084	60854	61393	291222	314139	314287	328321
60091	60855*	61405	291231	314141	314288	328329
60107	60869	61409	291244	314142	314289	328345
60141*	60891	61418	291263	314143	314294	328367
60176	60917	61441	291264	314147	314296	328391
60182	60931	61464	314009	314153	314297	328419
60200	61028	61494	314010	314161	314299	328434
60202	61052	291006	314011	314164	328019	
60312	61061	291021	314017*	314169	328022	
60324	61062*	291025	314035	314170	328025	
60362	61077	291044	314039	314172*	328042	

* Roller-bearing

Interstate Commerce Commission
Washington, D.C. 20423

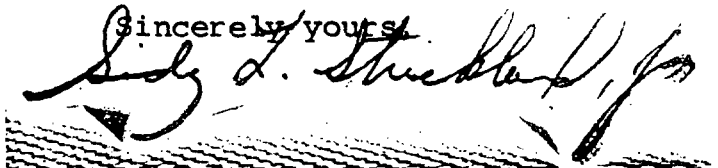
10/9/92

OFFICE OF THE SECRETARY

Debora J. Choate, Esq.
McLachlan, Rissman & Doll
6 West Hubbard Street-Suite 500
Chicago, Illinois 60601

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/9/92 at 10:35AM, and assigned re-recording number(s) 17973.

Sincerely yours,

Secretary

SIDNEY L. STRICKLAND, JR.

Enclosure(s)

RECORDATION NO **17973** FILED NOV

OCT 9 1992 - 10 55 AM

INTERSTATE COMMERCE COMMISSION

Recorded with the Interstate Commerce Commission pursuant to section 11303 of Title 49 of the United States Code on _____, 1992, and assigned recordation number _____.

LEASE AGREEMENT

This Agreement dated as of the 2nd day of October, 1992 ("Agreement") between Low End Rail Capital Holdings, Inc., an Illinois corporation, with its principal office at 6 West Hubbard Street, Suite 500, Chicago, Illinois 60610 ("Lessor"), and Wheeling & Lake Erie Railway Company, a Delaware corporation, with its principal office at 100 East First Street, Brewster, Ohio 44613 ("Lessee"). Lessor and Lessee agree as follows:

1. Lease

Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the 199 gondola cars identified in Schedule I attached to this Agreement (individually referred to as a "Unit" and collectively referred to as the "Units"). It is the intent of the parties to this Agreement that this Agreement be a true lease.

2. Term

The term of this Agreement with respect to each Unit shall be 60 months, commencing on October 2, 1992, and terminating on October 1, 1997, unless otherwise sooner terminated or extended by any other provision of this Agreement.

3. Delivery and Acceptance

All Units are in possession of Lessee as of the date of this Agreement and are considered delivered to and accepted by Lessee as of the date of this Agreement. Lessee agrees to execute and deliver to Lessor a certificate of acceptance substantially in the form of Exhibit A attached to this Agreement (a "Certificate of Acceptance") with respect to each of the Units.

4. Markings

The Lessee will cause the Units to be marked, plainly on each side of the Unit, with the reporting marks assigned to the Lessee by the Association of American Railroads ("AAR") and the identification numbers set forth in attached Schedule I. If such markings shall at any time be removed or become illegible, wholly or in part, Lessee shall, as soon as possible, cause such markings to be restored or replaced. Lessee shall not otherwise place, or permit to be placed, any lettering or marking of any kind upon the Units without Lessor's prior written consent, which shall not be unreasonably withheld. In no event shall Lessee place or permit to be placed any marking or lettering on the Units which may reasonably be interpreted as a designation of ownership. Nothing in this Agreement shall prohibit the Lessee from marking the Units with names, trademarks, initials, or symbols customarily used on railroad equipment in the service of the Lessee.

5. Rent; Unpaid Charges

(a) **Rental Payments.** Lessee agrees to pay Lessor, for each Unit subject to this Agreement, monthly rental payments equal to (i) \$65.00 per Unit for the first 24 months of the term of this Agreement and (ii) \$45 per Unit for the last 36 months of the term of this Agreement. Rent shall be payable in advance on the first day of each month during the term of this Agreement. If the first day of a month falls on a Saturday, Sunday or legal holiday, the rent shall be due on the next succeeding business day.

(b) **Unpaid Charges.** Lessee shall pay Lessor a late fee equal to 3% of the Unpaid Charges (as defined below) for each month that Unpaid Charges are outstanding. The late fee shall be payable on the 15th day of each month. "Unpaid Charges" means any payment of rent, any Casualty Payment (as defined in Paragraph 10 below) or any other amount owing under this Agreement not paid within five days of the date due, including any late fees not paid when due.

(c) **Net Lease.** This Agreement is a net lease and the Lessee's obligation to pay rent and other amounts payable under this Agreement shall be absolute and unconditional and, except as specifically provided in this Agreement, the Lessee shall not be entitled to any abatement of rent, reduction of rent, counterclaims or set-off against rent, including, but not limited to, abatements, reductions, counterclaims or set-offs due to any existing or future claims of the Lessee against the Lessor under this Agreement or otherwise. Lessee's obligation to pay all rent and other amounts due under this Agreement shall not terminate for any reason except the termination of this Agreement in accordance with its express terms. Lessee shall take no action to terminate, rescind or avoid this Agreement notwithstanding any bankruptcy, insolvency or other proceeding affecting the Lessor or the Lessee.

(d) **Method of Payment.** All rent, Casualty Payments, Unpaid Charges and other amounts payable by the Lessee under this Agreement shall be made by wire transfer of immediately available funds to a bank account or bank accounts specified by the Lessor.

6. Possession and Use

(a) **Possession and Use.** So long as no Event of Default has occurred and is continuing under this Agreement, the Lessee shall be entitled to (i) the possession of the Units, (ii) the use of the Units on lines of railroad owned or operated by the Lessee or by railroad companies incorporated in the United States over which the Lessee has rights to operate trains, and (iii) in the usual interchange of traffic upon the lines of railroad of connecting and other carriers.

(b) **Exception.** Notwithstanding subparagraph (a) above, the Lessee shall not use or permit the use of a Unit other than on lines of railroad owned and operated by the Lessee (or industrial leads and track connected to Lessee's lines) and shall not permit any Unit to be used in the interchange of traffic if a Unit does not qualify for interchange service under applicable rules and regulations of the AAR.

(c) **Quiet Enjoyment.** So long as no Event of Default has occurred and is continuing under this Agreement, neither the Lessor nor any person acting by, through or under the Lessor nor any person to whom the Lessor may have transferred any interest in this Agreement or any Units under this Agreement shall disturb or interfere with the possession, use and quiet enjoyment of the Units by the Lessee in accordance with the terms of this Agreement and in the manner customarily used in the railroad business.

7. Maintenance

The Lessee shall, at its own cost and expense, maintain the Units in good condition and repair, ordinary wear and tear and passage of time excepted, and at a level of maintenance comparable to that used on all similar equipment owned or leased by the Lessee and in compliance with the requirements of Paragraph 9 of this Agreement. Any parts installed or replacements made by the Lessee upon any Unit shall be considered accessions to such Unit, and title to any such accessions shall be immediately vested in Lessor, without cost or expense to Lessor.

8. Modifications

(a) **Use on Lessee's Lines.** If the AAR, the United States Department of Transportation ("DOT"), or any other governmental agency having jurisdiction over the operation, safety or use of railroad equipment requires that the Units be added to, modified, or in any manner adjusted in order to operate over the Lessee's lines, the Lessee will cause such addition, modification or adjustment to be made at its own expense; provided, however, that the Lessee may, in good faith and by appropriate legal proceedings, contest the validity or application of any such requirement in any reasonable manner which does not adversely affect the right or interest of the Lessor in the Units or under this Agreement.

(b) **Use in Interchange.** If, subject to Paragraph 6(b) above, the Lessee uses or permits the use of any Unit in interchange, the Lessee shall make any addition, modification, or adjustment required by the AAR, DOT or other governmental agency having jurisdiction over the operation, safety or use of railroad equipment in order to qualify any such Unit for operation in railroad interchange; provided, however, that the Lessee may, in good faith and by appropriate legal proceedings, contest the validity or application of any such requirement in any reasonable manner which does not adversely affect the rights or interests of the Lessor in the Units or under this Agreement.

(c) **Economically Impractical Modifications.** Notwithstanding anything in this Agreement to the contrary, if the Lessee determines in good faith that any required addition, modification or adjustment to the Units would be economically impractical, the Lessee may treat such requirement as a Casualty with respect to such Units under the provisions of Paragraph 10 of this Agreement.

(d) **Lessor's Consent Required.** Except for alterations or changes required by law, the Lessee shall not, without the prior written consent of the Lessor, effect any change in the design, construction or body of the Units. The Lessor's consent to modifications or additions to the Units which do not impair the value or utility of the Units shall not be unreasonably

withheld, provided that such modifications or additions which are not readily removable without material damage to or diminution of the Units shall be considered accessions to the Units, and title to such accessions shall be immediately vested in the Lessor without cost or expense to the Lessor.

9. Compliance with Regulations

The Lessee shall, at its own expense, comply with all applicable governmental laws, regulations and requirements, including without limitation applicable rules and regulations of the AAR, the DOT, and the Interstate Commerce Commission with respect to the title, use, maintenance and operation of the Units. The Lessee shall be responsible for obtaining all necessary railroad permissions, approvals and consents for use of the Units and shall bear all risk of failure to obtain such permissions, approvals and consents, or of cancellation of any such permissions, approvals or consents. The Lessor shall take, at no cost or expense to the Lessor, all actions reasonably requested by the Lessee in order to assist the Lessee in obtaining such permissions, approvals and consents.

10. Casualty

(a) **Casualty.** The following occurrences constitute a "Casualty" for purposes of this Agreement:

(i) If any Unit shall be declared an actual, constructive, or compromised total loss.

(ii) If any Unit shall not be available for use for 60 days or more due to destruction or damage beyond repair.

(iii) If any Unit shall not be available for use for a period in excess of 180 days due to theft or other disappearance.

(iv) If any Unit shall be condemned, confiscated, requisitioned, or seized by a foreign government for more than 180 days or by the United States government for a period extending beyond the term of this Agreement (or any renewal term).

(v) If any Unit, in the Lessee's good faith opinion, shall become contaminated or destroyed.

(vi) If any modification, addition or adjustment to a Unit is required by law and the Lessee shall determine, in accordance with Paragraph 8(c), that such modification, addition or adjustment is economically impractical.

(b) **Notice.** The Lessee shall promptly and fully (after it has knowledge of such Casualty, but in any event within 30 days after such knowledge) provide the Lessor with (i) written notice of any Casualty with respect to a Unit, including the date of the Casualty, the nature of the Casualty and any other pertinent information required by the Lessor, and (ii)

any applicable accident, notice or other such report with respect to the Units subject to the Casualty.

(c) **Payments.** Following the occurrence of a Casualty with respect to any Unit, the Lessee shall, within 60 days after the occurrence of a Casualty with respect to such Unit, pay to the Lessor (i) the casualty payment for the next preceding rent payment date as set forth in the casualty payment schedule attached to this Agreement as Schedule II (a "Casualty Payment"), plus, (ii) the daily rent for the Unit through the date that payment of the Casualty Payment is made, plus (iii) any Unpaid Charges and other sums due on or prior to the date that payment of the Casualty Payment is made with respect to such Unit then remaining unpaid.

(d) **Cessation of Rent Obligation.** Upon payment of all sums required to be paid pursuant to this Paragraph in respect of such Unit following a Casualty, the obligation to pay rent for such Unit accruing subsequent to the date on which the Casualty Payment is made will terminate, and the Unit will be deleted from this Agreement. The Lessee's obligations under this Agreement (including the payment of rent) shall continue for all other Units.

(e) **Transfer of Title.** Upon payment of the applicable amounts following a Casualty, ownership of and title to the Unit which has suffered such Casualty shall immediately vest in the Lessee, and the Lessor will take all actions reasonably requested by the Lessee to transfer such ownership and title to the Lessee.

11. Prohibition of Liens

The Lessee shall not suffer or permit to exist any claim, lien, or encumbrance on any Unit (including but not limited to claims, liens, or encumbrances arising prior to purchase of such Unit by the Lessor for lease under this Agreement), and shall promptly discharge any such claims, liens or encumbrances. The Lessee shall promptly pay or cause to be paid, or otherwise satisfy and discharge, any and all sums claimed by any person (except for sums claimed by the Lessor or anyone arising by, through or under the Lessor) which, if unpaid, might become a lien upon any Unit, but shall not be required to pay or discharge any such claim so long as the validity of such claims shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment of such claims does not adversely affect the title, property or rights of the Lessor created or purported to be created under this Agreement.

12. Taxes

(a) **Indemnity.** The Lessee agrees to assume responsibility for, and agrees to indemnify, protect, and hold harmless the Lessor, on an after-tax basis from, the filing of tax returns and reports and payment of all taxes, assessments and other governmental charges of whatever kind or nature levied or assessed upon or in respect of the Units or the use of the Units under the terms of this Agreement (exclusive, however, of any tax based on the net income of Lessor), including (but not limited) to any ad valorem or property taxes, all license, franchise or registration fees, fines, tariffs, switching, demurrage and any sales or use taxes payable on account of the leasing of the Units or the rents payable under this

Agreement; provided, however, that the Lessee will be under no obligation to pay any such taxes or other charges so long as the Lessee in good faith and by appropriate legal or administrative proceedings contests the validity or amount of the taxes or charges, and the nonpayment of such taxes or charges does not adversely affect the title, property or rights of the Lessor in or to any Unit.

(b) *Survival of Indemnity.* The indemnities arising under this Paragraph as to matters occurring during the term of this Agreement shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of this Agreement.

13. Insurance

(a) *Insurance Coverage.* Lessee will, at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained with insurers of recognized responsibility in providing insurance for the United States railroad industry, and with deductibles consistent with industry practice for similarly sized railroads, (i) public liability and third party damage insurance covering the operation and use of the Units in amounts and form commonly maintained by Lessee, and (ii) insurance against risk of physical loss or damage to the Units in the amounts and form normally maintained by Lessee with respect to comparable equipment; provided, however, that the coverage, in any event, shall be consistent with prudent industry standards.

(b) *Requirements as to Policies.* Any policies of insurance carried in accordance with this Paragraph shall name the Lessor as additional insured or a loss payee, as the case may be, with the understanding that any obligation imposed on the Lessee (including without limitation the liability to pay premium) shall be the sole obligation of the Lessee and not the Lessor. The insurance policies shall provide that coverage shall not be reduced, amended or canceled without at least thirty days' prior written notice to the Lessor.

(c) *Evidence of Insurance.* Prior to or on the commencement date of this Agreement and at each policy anniversary, the Lessee shall furnish the Lessor with approved certification of all insurance required by this Paragraph. Such certification shall be executed by each insurer or by an authorized representative of each insurer where it is not practical for such insurer to execute the certificate itself. Such certification shall identify underwriters, the type of insurance, the insurance limits, and the policy term, and to the extent such insurer or representative will do so without substantial additional cost, the specific provisions of such policy intended to comply with the requirements of this Paragraph. Upon request, the Lessee shall furnish the Lessor with copies of all insurance policies, binders, cover notes, or other evidence of such insurance. Concurrently with the furnishing of the certification referred to in this Paragraph, the Lessee shall have its independent insurance broker provide a statement that all premiums then due in respect of insurance required by this Paragraph have been paid and that such insurance is in full force and effect. The Lessor may at its sole option obtain the insurance required by this Paragraph if not provided by the Lessee, and in such event the Lessee shall reimburse the Lessor for the cost of such insurance.

(d) ***Payment of Proceeds as to Casualty Unit.*** Provided no Event of Default has occurred and is continuing under this Agreement, all property insurance proceeds under policies of insurance carried by the Lessee or condemnation payments received by the Lessor with respect to a Unit that has suffered a Casualty will be paid to the Lessee; provided, that the Lessee has made the Casualty Payment with respect to the Unit to the Lessor as contemplated by Paragraph 10 above.

(e) ***Payment of Proceeds with respect to a Non-Casualty Unit.*** Provided no Event of Default has occurred and is continuing under this Agreement, all insurance proceeds received by the Lessor under policies of property insurance carried by the Lessee in respect of any Unit not suffering a Casualty shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit has been repaired fully.

(f) ***Lessor's Rights upon Event of Default.*** Upon the occurrence and during the continuance of an Event of Default under this Agreement, all proceeds of property insurance in respect of the Units shall be payable to the Lessor, and the Lessee authorizes and appoints the Lessor its attorney-in-fact to so notify any insurers of such occurrence and continuance and to collect and receive any such proceeds. The Lessee shall use its best efforts promptly to amend its property insurance policies to provide for payment of proceeds directly to the Lessor after notice by the Lessor to such insurers of the occurrence and continuance of an Event of Default.

(g) ***Lessor May Carry Insurance.*** Nothing in this Agreement shall be construed to prohibit the Lessor from carrying any insurance on the Units for its own benefit; provided, however, that any such insurance shall not require any premiums to be paid by the Lessee nor shall any such insurance require the Lessee to carry additional insurance not specifically required of the Lessee by this Paragraph.

14. Indemnities

Lessee agrees to indemnify, protect and hold harmless the Lessor, on an after-tax basis, from and against all losses, damages, injuries, liabilities, claims and demands whatsoever (each a "Claim" and, collectively, "Claims"), regardless of the cause, and expenses in connection with such Claims, including but not limited to reasonable attorneys' fees and disbursements, penalties and interest arising out of or as the result of the purchase, use, operation, carriage of commodities (including hazardous materials), condition, maintenance, storage or return of the Units or any accident in connection with the use, operation, maintenance, condition, storage or return of the Units during the term of this Agreement. The indemnities arising under this Paragraph as to matters occurring during the term of this Agreement shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of this Agreement. Without limiting the generality of the foregoing, Lessor shall not be liable for any loss or damage to any commodities loaded or shipped in the Units. Lessee agrees to assume responsibility for, to indemnify Lessor against, and to hold Lessor harmless from, any claim in respect of such loss or damage.

15. Assignment; Sublease

(a) ***Right to Sublease.*** So long as no Event of Default shall have occurred and be continuing, the Lessee may sublease the Units to others for a term not extending beyond the original term of this Agreement (or any renewal term that shall have been entered into pursuant to this Agreement); provided, however, that the rights of any such sublessee shall be subject and subordinate to, and any such sublease shall be made expressly subject and subordinate to, all of the terms of this Agreement, and the Lessee shall remain obligated to perform all of its duties and obligations under this Agreement. In addition, before Lessee enters into any such sublease for a period greater than six months, the Lessee must obtain the Lessor's prior approval, and the Lessor agrees that such approval shall not be unreasonably withheld. No sublease of any Unit shall in any way discharge or diminish any of Lessee's obligations to Lessor under this Agreement including, but not limited to, any payments due to Lessor under this Agreement.

(b) ***Lessee's Right to Assign.*** Nothing in this Agreement shall restrict the right of the Lessee to assign or transfer its leasehold interest under this Agreement to any solvent corporation incorporated under the laws of any state of the United States or the District of Columbia, into or with which the Lessee shall have become merged or consolidated or that shall have acquired the business and property of the Lessee substantially as an entirety, provided that (i) such assignee or transferee shall have duly assumed the obligations of the Lessee under this Agreement, (ii) such assignee or transferee will not, upon the effectiveness of such merger, consolidation, or acquisition, be in default under any provision of this Agreement, (iii) the Lessor shall continue to have all rights of a lessor under section 1168 of the Bankruptcy Code under this Agreement and in respect of the Units, and (iv) such assignee or transferee (after giving effect to such merger or acquisition) shall have a net worth not less than the net worth of the Lessee immediately prior to such merger or acquisition.

(c) ***Lessor's Right to Assign.*** It is understood and agreed that the Lessor (or any successor or assignee) may assign this Agreement with respect to some or all of the Units to any security trustee, secured party or owner of such Units (each a "Lease Assignee"). Upon delivery of a written notice of assignment to the Lessee, the term "Lessor" as used in this Agreement shall mean such Lease Assignee. The Lessee shall consent to and acknowledge in writing, upon receipt of notice of assignment, such assignment of this Agreement by the Lessor or any Lease Assignee; provided, that any such consent or acknowledgment shall not in any manner increase or change the rights, obligations, duties or legal position of the Lessee nor in any way permit the diminution of the Lessee's right to possession and quiet enjoyment of the Units so long as Lessee is not in default under this Agreement. The Lessor warrants that any Lease Assignee shall agree to all the terms and conditions of this Agreement. Each Lease Assignee shall warrant that any subsequent Lease Assignee shall agree to all terms and conditions of this Agreement.

(d) ***Agreement Binding on Successors and Assigns.*** This Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.

16. Return of Units

(a) ***Return of Units Upon Expiration of Agreement.*** Upon the expiration of this Agreement or any renewal term with respect to any Unit (except as provided in subparagraph (b) below), the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such tracks of the Lessee as the Lessor may reasonably designate taking into account, among other things, the Lessee's storage capacity, security and access (or, in the absence of such designation, as the Lessee may select) and permit Lessor to store such Unit on such tracks for a period not exceeding 90 days. The Lessee will transport each Unit once at any time within such 90-day period from such storage location to a scrap dealer located on railroad lines owned and operated by the Lessee or to any other destination on railroad lines owned and operated by the Lessee designated by the Lessor, all as directed by Lessor upon not less than 5 days prior written notice to Lessee. If the Lessor directs the Lessee to move the Units to a scrap dealer, the Lessee shall, at the Lessor's request, move up to 50 Units at any one time to such scrap dealer. Lessee shall not be obligated to transport any Unit more than once at the request of the Lessor, after which the Lessee will have no further obligation with respect to any Unit so moved. During the 90-day storage period, the Lessee will permit the Lessor (or any person designated by the Lessor), at Lessor's risk, to inspect the Units; provided, however, that the Lessee will not be liable, except in the case of gross negligence or willful misconduct of the Lessee or of its employees or agent, for the death of or injury to any person exercising the rights of inspection granted under this sentence. The Lessor may, at its option and expense and upon not less than 5 days prior written notice to the Lessee, during the 90-day storage period, engage a scrap dealer to enter onto the Lessee's premises to scrap the Units; provided, however, that the Lessee will not be liable, except in the case of gross negligence or willful misconduct of Lessee or of its employees or agents, for the death of or injury to any person engaged by Lessor and exercising his rights to enter the Lessee's property and scrap the units. Lessee shall be responsible for the Units in accordance with the terms of this Agreement until such time as each Unit is delivered pursuant to Lessor's disposition instructions but in no event shall such responsibility extend beyond the storage period. Upon the termination of the 90-day storage period, the reasonable cost of storage or transporting any Unit shall be for the account of Lessor.

(b) ***Return of Units Upon Default.*** If the Lessor shall terminate this Agreement pursuant to Paragraph 20(b) of this Agreement, the Lessee shall immediately deliver possession of the Units to Lessor. For the purpose of delivering possession of any Unit to Lessor as required in this subparagraph, Lessee shall at its own cost, expense and risk:

- (i) immediately place such Unit upon such storage tracks of Lessee as Lessor may reasonably designate;
- (ii) permit Lessor to store such Unit on the storage tracks without charge for up to one year or until such earlier time as such Unit has been sold, leased, or otherwise disposed of by Lessor; and

(iii) transport such Unit one time to a scrap dealer located on railroad lines operated by the Lessee or any other location designated by the Lessor located on any railroad lines operated by the Lessee, all as directed by Lessor.

Upon application to any court of equity having jurisdiction, Lessor shall be entitled to a decree against Lessee requiring specific performance of the provisions of this subparagraph (b).

17. Inspection

The Lessor shall, at its sole cost and expense, at any reasonable time during normal business hours, upon reasonable notice to the Lessee and without interfering with the Lessee's operations, have the right to enter the premises of the Lessee for the purpose of inspecting the Units to ensure the Lessee's compliance with its obligations under this Agreement. The Lessor shall enter and occupy the Lessee's property at the Lessor's sole risk and shall be subject at all times to the Lessee's operating and safety requirements. Any injury, death or property damage arising out of such entry, occupancy and inspection, except if caused by the Lessee's gross negligence or willful misconduct, shall be the entire responsibility of the Lessor, and the Lessor will indemnify and hold harmless Lessee from any and all such liabilities.

18. Disclaimer

(a) **THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, QUALITY OR ANY OTHER MATTER RELATING TO THE UNITS, OR THE MATERIAL, EQUIPMENT OR WORKMANSHIP OF OR IN THE UNITS. ALL SUCH RISKS ARE TO BE BORNE BY THE LESSEE, AND THE LESSOR SHALL IN NO EVENT BE RESPONSIBLE FOR ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION STRICT LIABILITY IN TORT). THE LESSEE CONFIRMS THAT IT HAS SPECIFIED THE UNITS AND APPROVED THE DESIGN AND MATERIALS OF THE UNITS ON THE BASIS OF ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS RELIANCE UPON ANY STATEMENTS, REPRESENTATIONS OR WARRANTIES MADE BY LESSOR, AND LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OR VENDOR OF ANY OF THE UNITS.**

(b) The Lessor appoints the Lessee its agent to assert and enforce any rights the Lessor may have against the vendors or manufacturers of the Units and the component parts of the Units. Any amount recovered shall be applied to the repair or restoration of the Units.

19. Representations and Warranties

The Lessee represents and warrants as follows:

(i) The Lessee is a corporation duly incorporated, validly existing, and in good standing under the laws of the State of Delaware, is duly qualified to do business in all jurisdictions in which qualification is required in order for it to carry out the transactions contemplated by this Agreement, and has the corporate power and authority to hold property under lease and to enter into and perform its obligations under this Agreement.

(ii) This Agreement has been duly authorized, executed, and delivered by the Lessee and constitutes the legal, valid, and binding obligation of the Lessee, and this Agreement is enforceable against the Lessee in accordance with its terms.

(iii) The execution, delivery and performance by the Lessee of this Agreement is not inconsistent with or in violation of the Lessee's certificate of incorporation or by-laws, any law, governmental rule or regulation, judgment or order applicable to the Lessee, or any indenture, mortgage, contract or other instrument to which the Lessee is a party or by which it is bound, and does not require the consent, approval or other action by any federal, state, or local governmental body.

(iv) There are no actions, suits, or proceedings pending or, to the knowledge of the Lessee, threatened against the Lessee in any court or before any governmental body that, if adversely determined, will have a material adverse effect on the ability of the Lessee to perform its obligations under this Agreement.

(v) The Lessee is a "railroad" as such term is defined in section 101 of the Bankruptcy Code of the United States.

(vi) The balance sheet and the related statement of income and statement of changes in financial position of the Lessee, or the consolidated group of which the Lessee is a member, previously delivered to the Lessor have been prepared in accordance with generally accepted accounting principles and fairly present the financial position of the Lessee or such consolidated group, as the case may be, on and as of the date of this Agreement, and the results of its operations for the period or periods covered by such financial statements; since the date of such balance sheet and statement, there has not been any material adverse change in the financial condition or results of operations of the Lessee or such consolidated group.

20. Default

(a) **Events of Default.** The occurrence of any of the following events shall be an "Event of Default" by the Lessee:

(i) The Lessee fails to pay any amount of rent due under this Agreement when due and such nonpayment shall continue for five (5) business days.

(ii) Any other sum (including without limitation any Casualty Payment or Unpaid Charge) required under this Agreement to be paid to Lessor or by Lessee is

not paid when due and such nonpayment shall continue for five (5) business days after notice of such nonpayment.

(iii) The Lessee fails to maintain the insurance required by Paragraph 13.

(iv) The Lessee becomes insolvent or fails generally to pay its debts as such debts become due, or files a petition for reorganization or liquidation under the federal Bankruptcy Code, or seeks dissolution of the Lessee under applicable law, or causes or suffers an order for relief to be entered against it under applicable federal or state bankruptcy law, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a custodian, trustee or receiver for the Lessee or for the major part of its property, or takes any corporate action in furtherance of any of the foregoing, or a petition for reorganization or liquidation under the federal Bankruptcy Code or other applicable bankruptcy or insolvency law shall be filed against the Lessee, and in the case of any involuntary petition, such petition shall not have been discharged or dismissed within 60 days.

(v) Any representation or warranty made by the Lessee in this Agreement or in any other document delivered to Lessor by Lessee related to this Agreement shall have been false or incorrect in any material respect on the date when made and such breach or default remains material and continues for a period of thirty (30) days after the Lessee's receipt of written notice from the Lessor of such breach or default.

(vi) The breach by the Lessee of any other term, covenant, or condition of this Agreement, which is not cured within fifteen (15) days of the Lessee's receipt of written notice from the Lessor; provided, however, that if such breach is incapable of cure within 15 days but is otherwise curable, and the Lessee is diligently attempting to cure such breach, such cure period shall be extended (but shall not exceed ninety (90) days from the notice date in any event).

(b) **Remedies.** Upon the occurrence and during the continuance of any Event of Default, the Lessor may exercise either of the following remedies:

(i) The Lessor may proceed by any lawful means to recover damages for a breach of this Agreement or to enforce performance by the Lessee of this Agreement.

(ii) The Lessor may terminate this Agreement and the Lessee's right to possession and use of the Units, upon which termination all rights and interest of the Lessee in the Units shall terminate, and the Lessor may enter upon any premises where the Units may be located and take possession of them and hold, possess and enjoy the same free from any right of the Lessee. Notwithstanding such termination, Lessor shall have the right to recover from the Lessee any rent and other amounts which are then due and payable, or which may have accrued to the date of such termination, plus (as damages for loss of the bargain and not as a penalty) an amount equal to the excess, if any, of the Casualty Payment for each Unit then subject to this Agreement over (A), if the Lessor shall dispose of any Units after recovery of possession of the Units from the Lessee, the net amount realized upon such

disposition by the Lessor or (B), if the Lessor shall elect to retain any Units after recovery of possession of the Units from the Lessee, the Fair Market Value of such Units, determined in accordance with Paragraph 22 below.

(c) **Expenses; Remedies Cumulative.** The Lessee shall bear the costs and expenses, including without limitation reasonable attorneys' fees and disbursements, incurred by the Lessor in connection with the exercise of its remedies pursuant to this Paragraph 20. No remedy referred to in this Paragraph is intended to be exclusive but each shall be cumulative and in addition to any other remedy otherwise available to the Lessor at law or in equity. The Lessee waives any mandatory requirement of law, now or subsequently in effect, which might limit or modify the remedies provided in this Agreement, to the extent that such waiver is permitted by law.

(d) **Section 1168 Protection.** The parties to this Agreement intend that the Lessor shall have all rights in respect of the Units and this Agreement available to lessors of railroad equipment under section 1168 of the Bankruptcy Code, and the Lessee shall take no action in any proceeding under the Bankruptcy Code inconsistent with such rights.

21. Renewal

Provided that no Event of Default, or any event that with lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the term of this Agreement with respect to all of the Units then subject to this Agreement shall be automatically renewed for additional one year periods; provided, however, that Lessee may elect not to renew the term of this Agreement by providing Lessor with written notice not fewer than 90 days prior to the scheduled expiration of this Agreement or the renewal term, as the case may be. The monthly rent payable, during a renewal term, shall be \$45 per Unit, otherwise payable in accordance with and subject to the terms of this Agreement.

22. Purchase Option

(a) **Option.** The Lessor grants to Lessee an option to purchase all, and not fewer than all, of the Units subject to this Agreement at the time of exercise of the option, in accordance with this Paragraph. Provided that all obligations under this Agreement have been paid in full, upon the expiration of this Agreement or of any renewal term, the Lessee may exercise its option to purchase all of the Units then subject to the Agreement for a purchase price equal to the "Fair Market Value" (as defined below) of the Units. The Lessee may exercise its option to purchase the Units by providing the Lessor with written notice of such election not fewer than 90 days prior to the scheduled expiration of this Agreement or the renewal term, as the case may be.

(b) **Fair Market Value.** The "Fair Market Value" of a Unit shall be determined as of the time of the exercise of the purchase option, and shall be equal to the amount that would be used in an arm's-length transaction between an informed and willing lessee or buyer (other than a lessee or buyer in possession), as the case may be, and an informed and willing owner under no compulsion to lease or sell, and in such determination, the costs of

removal from the location of current use shall not be a deduction from such value. If the Lessee and the Lessor are unable to agree on the Fair Market Value before 60 days prior to the expiration of the term of this Agreement or of the renewal term, as the case may be, the Fair Market Value shall be determined by an appraiser selected by the mutual agreement of the Lessee and the Lessor, and the appraiser's valuation shall be conclusive and binding on the Lessee and the Lessor. The costs of such appraisal shall be borne by the Lessee.

23. Records; Reports

(a) **Records.** The Lessee will perform all record-keeping functions related to the use of the Units that Lessee, in the normal course of business, from time to time, performs for similar equipment owned or leased by Lessee. Lessee agrees to make such information available to Lessor from time to time as Lessor may reasonably request.

(b) **Financial Statements.** The Lessee will furnish to the Lessor (i) not later than 120 days after the end of each fiscal year of the Lessee, a consolidated balance sheet of the Lessee as at the end of such fiscal year, and the consolidated statements of income and cash flow of the Lessee for such fiscal year, together with equivalent information for the prior fiscal year, all in reasonable detail, prepared in accordance with generally accepted accounting principles and audited by a nationally recognized firm of independent certified public accountants, and (ii) not later than 60 days after the end of each of the first three quarters of each fiscal year of the Lessee, a consolidated balance sheet of the Lessee as at the end of such quarter, and the consolidated statements of income and cash flow of the Lessee for such quarter, together with equivalent information for the corresponding quarter of the prior fiscal year, all in reasonable detail and prepared in accordance with generally accepted accounting principles.

24. Conditions Precedent

The obligations of the Lessor under this Agreement are subject to the satisfactory performance by the Lessee, on or prior to the commencement date of this Agreement, of the following conditions:

- (a) This Agreement shall have been duly executed and delivered by Lessee;
- (b) Evidence satisfactory to Lessor as to due compliance with the provisions of Paragraph 13 of this Agreement relating to insurance with respect to the Units, together with a certificate of such insurance, shall have been delivered to Lessor;
- (c) Lessee shall have executed and delivered to Lessor a Certificate of Acceptance covering each Unit in the form of Exhibit A attached to this Agreement;
- (d) Lessee shall have executed and delivered any other documents that Lessor may reasonably request.

25. Governing Laws

The terms of this Agreement and all rights and obligations under this Agreement shall be governed by the laws of the State of Illinois. This Agreement (together with the other documents specified in Paragraph 24) contains all of the terms and conditions agreed to between the parties, and no other prior agreements, oral or otherwise, concerning the subject matter of this Agreement, shall be deemed to exist or bind either party to this Agreement, except as specifically set forth in this Agreement. The terms of this Agreement and the rights and obligations of the parties may be changed or waived only by a writing executed by both parties.

26. Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

27. Further Assurances

The Lessee will, at its expense, promptly and duly execute and deliver to the Lessor such further documents and assurances and take such further action as the Lessor may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies created or intended to be created in favor of the Lessor under this Agreement, including, without limitation, the execution, delivery, recordation and filing of documents with the Interstate Commerce Commission, and the execution and filing of Uniform Commercial Code financing statements in the appropriate jurisdictions.

28. Notices

Unless otherwise expressly specified or permitted by the terms of this Agreement, all notices required or permitted in this Agreement shall be in writing and shall become effective (i) upon personal delivery of such notice, including, without limitation, by overnight mail and courier service, or (ii) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt of such notice or (iii) in the case of a writing transmitted by facsimile, upon receipt of such writing, provided that receipt shall have been confirmed by recipient by telephone or written confirmation, in each case addressed to each party to this Agreement at its address set forth below or sent to the number set forth below or, in the case of any such party to this Agreement, at such other address or to such other number as such party may from time to time designate by written notice to the other party to this Agreement:

If to the Lessee:

Wheeling & Lake Erie Railway Company
100 East First Street
Brewster, Ohio 44613
Attention: President

Tel: (216) 767-3401
Fax: (216) 767-3364

If to the Lessor:

Low End Rail Capital Holdings, Inc.
6 West Hubbard Street
Suite 500
Chicago, IL 60610
Attention: President
Tel: (312) 527-2300
Fax: (312) 527-2023

29. Expenses

The Lessee shall pay all expenses incurred by the Lessor in connection with the inspection of the Units and the negotiation and preparation of this Agreement, including (without limitation) attorneys' fees and costs associated with the appraisal of the Units; provided, however, that Lessor shall pay any such expenses in excess of \$5,000. The Lessee shall pay its own expenses in connection with this Agreement.

LOW END RAIL CAPITAL HOLDINGS, INC.

By: _____

Its: _____

WHEELING & LAKE ERIE RAILWAY COMPANY

By: _____

Its: _____

SCHEDULE I

Identification of the Units

199 50 ft., 70 ton, flat-bottomed steel mill gondolas, with steel floors and friction bearings, bearing the following road numbers:

328478	60381	61078	291056	314048	314173	328043
328511	60392*	61090	291059	314050	314176	328053
328529	60409	61092	291060	314051	314178	328073
328536	60478	61122	291074	314052	314182	328074
328548	60503	61153	291079	314071	314196	328084
328555	60535*	61158	291081	314072	314202	328087
328565	60580	61165	291104	314075	314208	328091
328567	60615	61193	291107	314081	314219	328126
328577	60645	61209	291123	314087	314223	328127
328583	60661	61224	291133*	314107	314226	328134
328588	60745	61232	291139	314108	314227	328138
328594	60747	61238	291144	314110	314229	328151
60009	60769	61258	291158	314117	314230	328158
60016	60778	61272	291165	314119	314233	328194
60022	60793	61313	291185	314121	314245	328201
60029	60816	61345	291199	314128	314254	328203
60047	60825	61352	291211	314135	314258	328262
60079	60832	61362	291215	314136	314281	328263
60084	60854	61393	291222	314139	314287	328321
60091	60855*	61405	291231	314141	314288	328329
60107	60869	61409	291244	314142	314289	328345
60141*	60891	61418	291263	314143	314294	328367
60176	60917	61441	291264	314147	314296	328391
60182	60931	61464	314009	314153	314297	328419
60200	61028	61494	314010	314161	314299	328434
60202	61052	291006	314011	314164	328019	
60312	61061	291021	314017*	314169	328022	
60324	61062*	291025	314035	314170	328025	
60362	61077	291044	314039	314172*	328042	

* Roller-bearing

SCHEDULE II
Casualty Payments

<u>MONTH</u>	<u>CASUALTY VALUE</u>
1	\$2,150
2	2,150
3	2,150
4	2,150
5	2,150
6	2,150
7	2,150
8	2,150
9	2,150
10	2,150
11	2,150
12	2,150
13	2,000
14	2,000
15	2,000
16	2,000
17	2,000
18	2,000
19	2,000
20	2,000
21	2,000
22	2,000
23	2,000
24	2,000
25	2,000
26	2,000
27	2,000
28	2,000
29	2,000
30	2,000
31	2,000
32	2,000
33	2,000
34	2,000
35	2,000
36	2,000
37	2,000
38	2,000
39	2,000

40	2,000
41	2,000
42	2,000
43	2,000
44	2,000
45	2,000
46	2,000
47	2,000
48	2,000
49	2,000
50	2,000
51	2,000
52	2,000
53	2,000
54	2,000
55	2,000
56	2,000
57	2,000
58	2,000
59	2,000
60	2,000

EXHIBIT A

Form of Certificate of Acceptance

I, a duly-authorized and appointed representative of Wheeling & Lake Erie Railway Company ("WLE"), certify that I have on this date inspected and accepted for lease the gondolas identified on attached Schedule I being leased by Low End Rail Capital Holdings, Inc. ("LERCH"). I further certify the gondolas conform to the specifications for acceptability per the Lease Agreement dated OCT 1, 1992 between LERCH (as Lessor) and WLE (as Lessee).

Dated: OCT 1, 1992

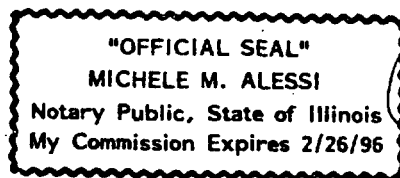
Dennis R. Weed
Inspector and Authorized Representative
of Wheeling & Lake Erie Railway Company

State of ILLINOIS)
) SS.
County of COOK)

On this 30th day of September, 1992, before me personally appeared Anthony D. Kruglinski, to me personally known, who being duly sworn, did depose and say that such person is the President of Low End Rail Capital Holdings, Inc., and that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Witness my hand and Notarial Seal on the day and year last written above.

(SEAL)



Michele M. Alessi
Notary Public

My commission expires

2/26/96

State of OHIO)
) SS.
County of Stark)

On this 21 day of October, 1992, before me personally appeared Larry B. Parsons, to me personally known, who being duly sworn, did depose and say that such person is the President & CEO of Wheeling & Lake Erie Railway Company and that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Witness my hand and Notarial Seal on the day and year last written above.

(SEAL)

Paula Keller
Notary Public

My commission expires

Oct. 18, 1995